

SELF SERVICE CENTER

INSTRUCTIONS FOR GETTING A LEGAL SEPARATION WITHOUT A HEARING

Arizona Rules of Civil Procedure 55(b)1(ii)

REQUIREMENTS

Sometimes a court hearing is not required to get a legal separation. This procedure may be used if you meet the following requirements:

1. Husband and wife both must be legally competent or sane.
2. Husband and wife both must agree to a default without a hearing.
3. There are no minor children of the relationship of the parties born before or during the marriage or adopted by the parties during the marriage.
4. Wife is not pregnant with husband's child.
5. Husband and wife have no real estate or real property.
6. The assets acquired during the marriage are less than \$15,000 after the parties subtract all money owed on the assets.
7. The debt acquired during the marriage is less than \$10,000.
8. Neither husband and/or wife is making a claim for spousal maintenance/support (alimony).

You cannot use this procedure if the responding party was served by publication or if court fees have not been paid, or waived or deferred. **For the complete list of requirements, read the "Motion and Affidavit for a Default Without a Hearing."**

PROCEDURE

1. **BEFORE YOU REQUEST A DEFAULT WITHOUT A HEARING, CHECK TO BE SURE THAT YOU HAVE:**
 - Properly served the other party, and filed an **"Affidavit of Service"** or the **"Notice and Request to Accept Service"** and the **"Acceptance of Service."** (Service cannot be done by publication); **AND**
 - Completed and filed the **"Application and Affidavit for Entry of Default"** and mailed a copy to the other party; **AND**
 - Waited at least 64 days after the date service was complete to file the **"Motion and Affidavit for Default without a Hearing."**
2. **READ, COMPLETE, SIGN, AND DATE** the **"Motion and Affidavit for Default Without a Hearing."**
3. **GO** to Family Court Administration at the court where you filed the Petition for Legal Separation. Hours of business are Monday through Friday, 8:00 a.m. to 5:00 p.m. The Court is located at:
 - 101 West Jefferson, ECB, 1st Floor, Phoenix, AZ 85003, OR
 - 222 East Javelina Drive, 1st Floor, Mesa, AZ 85210
 - 14264 West Tierra Buena Lane, Surprise, AZ 85374
 - 18380 North 40th Street, Phoenix, AZ 85032
4. **TAKE** the following documents:

- The original and 2 copies of the signed ***“Motion and Affidavit for Default Without a Hearing”***
 - The original and 2 copies of the Legal Separation Order not yet signed by the Judge;
 - Two (2) 9" x 12" envelopes, each stamped with 66 cents of postage, one addressed to you, and the other to the other party, with current addresses (including zip code);
 - A copy of the receipt showing that you have paid the court fees or a copy of the Order showing that your fees have been deferred.
5. **WHAT COURT ADMINISTRATION WILL DO:** Court Administration will forward the documents to the judge assigned to your case to decide if you can get a default without a court hearing. Both you and your spouse should receive a signed Order/Decree or a Rejection Notice in the mail within 3-4 weeks. You can call 602-506-1561 between the hours of 8:30 a.m. and 4:30 p.m. to check on the status of your case. Do not call until at least four (4) weeks after you dropped off your default papers.
6. **IF YOUR MOTION FOR A DEFAULT WITHOUT A HEARING IS ACCEPTED:** The judicial officer will sign the original Decree/Order and have it filed with the Clerk of the Court. The court will send a copy of the Decree/Order to each party using the envelopes you provided. This is your notification that your Legal Separation is final.
7. **IF YOUR MOTION FOR A DEFAULT WITHOUT A HEARING IS REJECTED,** the court will send you a **REJECTION NOTICE** briefly informing you as to the problems with the documents. If you receive a Rejection Notice, here is what you can do:
- a. **PICK UP THE PAPERWORK:** Pick up your documents at Family Court Administration and make the necessary corrections. You are the only one who can pick up this paperwork. **(THESE DOCUMENTS WILL BE DESTROYED AFTER 30 DAYS.)**
 - b. **CORRECT THE PROBLEMS:** You will have one (1) chance to correct the problem(s) and resubmit the required documents to Family Court Administration.
8. **IF THE PAPERWORK STILL IS NOT CORRECT** after you resubmit ***the “Motion and Affidavit for a Default Without a Hearing”*** and it is rejected again **or** if the judicial officer determines that this procedure without a hearing is not appropriate, Court Administration will automatically schedule a default hearing for you **but only if** you have met all the requirements for scheduling a default hearing. The court will send you a notice with your default hearing date. Then, you need to do the following things:
- a. **PICK UP THE PAPERWORK AGAIN:** Pick up your documents at Family Court Administration and make the necessary corrections. You are the only one who can pick up this paperwork. **(THESE DOCUMENTS WILL BE DESTROYED AFTER 30 DAYS. YOU WILL NEED SOME OF THESE DOCUMENTS AT YOUR HEARING).**
 - b. **INTERPRETER:** If you need a court Interpreter at the default hearing, call **602-506-7879** between the hours of 9:00 A.M. and 3:00 P.M. Your court date may need to be changed if the court interpreter is not available on the scheduled day.
 - c. **TO RESCHEDULE THE DEFAULT HEARING DATE:** The petitioning party must appear **in person, not by telephone**, at Family Court Administration and **show picture ID** to reschedule the default hearing, unless Court Administration changes the date of the hearing.